

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                           |   |          |
|---------------------------|---|----------|
| UNITED STATES OF AMERICA, | ) |          |
| Plaintiffs,               | ) |          |
|                           | ) | 8:06CR99 |
| v.                        | ) |          |
|                           | ) |          |
| RAYMOND C. WHITBECK, SR., | ) |          |
|                           | ) | ORDER    |
| Defendant.                | ) |          |
| _____                     | ) |          |

This matter is before the court on the defendant's motion, Filing No. 109, requesting multiple transcripts. The Eighth Circuit Court of Appeals has consistently held that a defendant is not entitled to court records, such as a transcript, at government expense in advance of filing a motion pursuant to 28 U.S.C. § 2255. See, e.g., *Chapman v. United States*, 55 F.3d 390, 390-391 (8<sup>th</sup> Cir. 1995): "We held in *United States v. Losing*, 601 F.2d 351, 352 (8<sup>th</sup> Cir. 1979) (per curiam), that under 28 U.S.C. § 753(f) and under Supreme Court authority 'any request for a free transcript prior to the filing of a section 2255 complaint is premature.' We also held that under section 753(b), access to materials such as a transcript is not constitutionally required until after judicial certification that access is required to decide issues presented in a pending, non-frivolous case. *Id.* at 353."

THEREFORE, IT IS ORDERED that defendant's motion for transcripts, Filing No. 109, is denied as premature.

DATED this 6<sup>th</sup> day of July, 2007.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge